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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
GWENN A. EMMONS,

Plaintiff,

-against-

NANCY A. BERRYHILL,  
Acting Commissioner of Social Security,

Defendant.  
-----X

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 11/2/2020

FINDINGS OF FACT AND ORDER  
18 Civ. 1882 (NSR/JCM)

Plaintiff and Timothy S. McAdam, Esq. agreed that Plaintiff would pay the larger of the two fees under 28 U.S.C. §2412 and 42 U.S.C. §406(b), as follows:

“(1) an amount equal to 25% of past due benefits resulting from my claim or claims (which I understand may exceed \$900.00 per hour) or (2) such amount as my attorneys are able to obtain pursuant to the Equal Access to Justice Act (EAJA) 28 U.S.C. 2412 . . . .”

Plaintiff’s attorneys furnished substantial services to Ms. Emmons in pursuing the instant civil action. It resulted in a judgment under sentence 4, 42 U. S. C. §405(g) pursuant to a Court Order remanding the within action for further administrative proceedings.

Ms. Emmons was awarded attorneys fee under 28 U.S.C. §2412 (the Equal Access to Justice Act)(Document 32)

Defendant has issued a Notice of Award withholding funds from past due benefits to pay attorneys fees.

Administrative proceedings were completed, and resulted in an award of disability

benefits to the plaintiff.

There is no reason to deduct from the fee that plaintiff's attorney seeks by reason of (a) any delay on his part, (b) fraud, or overreaching by plaintiff's attorney; (c) the results they achieved in this action achieved the object of the bargain made between plaintiff and their attorneys, and (d) the character of the representation in this matter.

Defendant's counsel has not objected to the motion.


The fee plaintiff's attorneys have applied for is reasonable under all the circumstances.

NOW THEREFORE IT HEREBY IS ORDERED THAT plaintiff's attorneys be paid the sum of \$15,000.00 for their services in this action. They shall refund to plaintiff the fee allowed under 28 U.S.C. §2412.

The Clerk of the Court is kindly directed to terminate the motion at ECF No. 33.

Date: 11/2/2020  
White Plains, NY

SO ORDERED:

  
HON. NELSON S. ROMAN  
UNITED STATES DISTRICT JUDGE